



THE CITY OF SAN DIEGO

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February 4, 1999

Honorable Wayne L. Peterson
Presiding Judge
San Diego County Superior Court
Hall of Justice
P. O. Box 2724
San Diego, CA 92112-2720

Dear Judge Peterson:

Enclosed is the City of San Diego's formal response to the Grand Jury's second interim report (dated November 2, 1998) on Proposition C -- the ballpark and redevelopment project.

Should this response require any additional clarification, please contact me and I will ensure that the information is provided as quickly as possible.

Sincerely,

MICHAEL T. UBERUAGA
City Manager

PCG/caw

Enclosures

cc: Mayor and City Council
City Attorney



CITY OF SAN DIEGO RESPONSE TO GRAND JURY INTERIM REPORT NO. 2

"Standards of Disclosure Re: Ballpark Financing Project"

Dated November 2, 1998

Pursuant to Penal Code Section 933.05, the City of San Diego provides the following responses to the above entitled Grand Jury Report.

RESPONSE TO FINDINGS:

1. It is acknowledged that the Memorandum of Understanding between the City of San Diego and the Padres for a ballpark and redevelopment of downtown is a complex legal document. Due to the importance of this project and its complexity, the City conducted a series of forums and distributed reports of explanation to public locations throughout the city. The specifics for the public forums and the public informational reports are listed in the following:

Public Forums: At least seven public meetings of the full City Council were held on this project beginning on September 30, 1997. All of these meetings were televised at least once on the City's cable access channel, and some were televised several times. The City Council's Land Use and Housing Committee also addressed this issue twice in publicly noticed meetings. Two task forces met on ballpark-related issues in public forums. Between them, the Mayor's Task Force on Padres Planning and City of San Diego Task Force on Ballpark Planning hosted 26 meetings and heard testimony and comments from thousands of San Diegans over the last two years. The reports of both Task Forces incorporated and reflected the public testimony and comments as appropriate.

Public Informational Reports: A binder of source documents regarding the proposed ballpark and redevelopment project was prepared and distributed to 60 park and recreation facilities, 34 city library facilities, eight community service centers, and the City Clerk's office. The documentation included the following:

1. Memorandum of Understanding (MOU) between the City and the Padres
2. Ballpark and redevelopment project financial information
3. Memorandum of Essential Terms
4. Background on the Mayor's Task Force on Padres Planning
5. Background on the City of San Diego Task Force on Ballpark Planning

6. Executive Summary of Report of the Task Force on Ballpark Planning
7. Final Recommendation of the Task Force on Ballpark Planning

The City also made available the set of source documents on the City's web page at <http://www.ci.san-diego.ca.us>. Internet access was available to the public at all City libraries as well as through any home or business Internet connections.

On October 27, 1998, the City made available over 10,000 copies of the attached brochure entitled, "City of San Diego Proposed Ballpark and Redevelopment Project: An Agreement to Redevelop Downtown Between the City of San Diego and the San Diego Padres." The same distribution locations previously sited were used to distribute this factual, informative summary of the MOU.

The 103 public facilities that received the information hosted several thousand members of the public daily. Combined with Internet access, the distribution and availability of the documents reached several thousand voters and taxpayers.

These public materials were provided to the Grand Jury on October 21, 1998, and on October 29, 1998. An additional copy can be assembled and forwarded to you, if desired.

2. The ballpark and redevelopment project is vital to building a strong downtown, which is critical for the long-term health of the city. Redevelopment is a tool that helps facilitate this type of development and assists blighted areas by providing capital investment and general economic stimulation created by this infusion of capital. The MOU does not provide for on-going subsidies of the Padres. A partnership between the redevelopment agency, city, and the private developer was formed to bring several entities into the investment plan for downtown to ensure that on-going subsidies would not be needed and to create a future revenue stream of tax increment that would help pay for the needed improvements.
3. The MOU is a framework document that establishes the major, general terms of the relationship between the City and the Padres. A series of contracts and agreements will be needed to implement the MOU. These documents will be developed at various stages of the redevelopment project. The type of disclosure addressed by the Grand Jury (the financial experience of all private parties) will be addressed once the

Redevelopment Agency and the Centre City Development Corporation (CCDC) reach agreement with private developers on the terms and conditions of the redevelopment aspect of the project in accordance with all local, state and federal laws.

4. It is feasible that the Padres' owners will not contribute equity into the project; however, it is also feasible that they may contribute a significant portion of the \$115 million of private investment. The terms of the MOU require that this be the risk of the Padres' owners and not the City. It should be noted that the City of San Diego will own the entire ballpark once the bonds used to build the ballpark are retired.
5. The City has addressed potential impacts that may occur in the event of long-term economic recessions or other adversity in the development of TOT projections. Specifically, the City built-in the potential for insuring the bonds at the time of issuance. As well, the City has a demonstrated history of establishing significant reserves to account for changes in economic circumstances. Long-term recessions have consequences beyond capital projects and the City will address those consequences if they occur as part of its annual budget process. A review date of April 1, 1999 was agreed to and supported by the voters to provide the City with an additional opportunity to review the feasibility of hotel development and generation of transient occupancy tax (TOT). Should a more in-depth review of market conditions suggest there is to be a significant deficiency, the option is available that the project would not proceed.
6. TOT is an important funding source for the City. It enables the City to provide a multitude of services, including support of community organizations and other agencies. The TOT allocation process is conducted on an annual basis and decisions are made each year by the City Council based upon current needs. Any major fluctuations in the economy can affect TOT and the revenue projections estimated in the fiscal pro forma for this project. (Refer to Response to Finding 5 above as to how the City would address a significant deficiency in funds.)
7. The TOT projections do show an increase in the number of hotel rooms. The new rooms will support both the ballpark and the new convention center expansion—a project now underway. The expansion of the convention center alone requires 2,300 rooms to meet visitor needs. The projected rate of growth is well below the City's experience in the past several years and reflects the average growth. The projections are considered conservative and realistic.

8. The new City library and the ballpark redevelopment project are separate and distinct projects. Naturally, the same dollars cannot be used to fund different projects; however, the same funding source may be used. The overall fiscal analysis of each project is done with an analysis of the overall strength of the identified funding source(s) to ensure that sufficient revenues will be available. The City Council is considering its options in regard to the financing of a new main library and has several funding options available.
9. The Grand Jury offered several options for increasing revenues and reducing expenditures. While these are helpful options, they may not be considered directly relevant in the discussion of the ballpark redevelopment plan given that an adequate funding plan is adopted utilizing primarily new City revenues.
10. The bond market does fluctuate with certain economic factors. Predicting the condition of the market one year from now is speculative. The City believes that the pro forma projections are fiscally sound. The projections and bond rate will be reviewed throughout the next year, assuming the project continues beyond the April 1, 1999, review date.

Response to Recommendations:

1. The City agrees that efforts to inform the public on the pros and cons of capital projects are appropriate and needed. The City undertook a lengthy, comprehensive public information process to inform citizens of the proposed ballpark and redevelopment project. The City believes that its obligation in informing the public about Proposition C and the proposed MOU was fully discharged.
2. The City agrees that the suggestions of the Grand Jury have merit and will be considered on a case-by-case basis for future projects and elections. The City has used and will continue to use the cable access channel for dissemination of public information. Neighborhood Service Centers were established, in part, for the purpose of dispensing public information. The Centers were a critical link in the distribution of factual data on Proposition C and will continue to be used for the distribution of public information.
3. Same as #2 above.
4. As noted by the Grand Jury in Finding #1, State law prohibits governments from advocating a position on a ballot measure. Interpreting and/or summarizing the facts of agreements must be carefully done to

ensure a fair and impartial presentation. In the case of the ballpark and redevelopment project, every effort was made to present the factual data without interpreting, which may have been challenged as advocacy. Every effort was made to remove "legalese" from the public presentation of materials. The document entitled "City of San Diego Proposed Ballpark and Redevelopment Project: An Agreement to Redevelop Downtown Between the City of San Diego and the San Diego Padres" was disseminated with the intent of presenting the information in as straight forward a manner as possible without advocating a position either way. Simplified bullet items were included to present the highlights of the agreement; key boxes framed the financial pro forma; definitions of the various types of funding sources were provided; and, easy to follow headings were used such as "Key City Responsibilities," "Key Padres Responsibilities," "About Transient Occupancy Taxes (TOT)," and "Parking." Whenever possible, legal terms were omitted.

Given the number of public forums, amount of television broadcasting of public meetings, and the wide distribution of public materials, the City believes that the electorate was well-informed and aware of the terms and conditions of the agreement and the ballot item. Proposition C may be the most analyzed and understood proposition regarding a major public project in the city's history.

5. The City believes that it is the proper role of such groups to lead the debate and interpret the factual information on ballot propositions. State law restricts the role of the City once a matter is placed on the ballot. The City believes it complied with State law while informing the electorate of the facts surrounding the proposition.
6. The City Council was informed fully of the ballpark and redevelopment project issues. Informational sessions were held through the auspices of the Council appointed Task Force as well as by the City Council and Council Committee directly. While every effort was made to ensure the meetings dispensed factual information, all meetings were intended to obtain public input and feedback, as well. In accordance with the Brown Act, public comment is required for meetings of this nature. Often the sharing of public input takes the form of "debating." This was considered an important part of the learning and educational process for citizens as well as for public officials.
7. The Internet is a useful tool—one of many available to the City. When used in conjunction with other educational and informational tools, such as the City's government access cable television channel, effective

communication occurs. The City believes that the Internet will continue to be used to a great extent by the electorate to inform themselves of municipal issues and that the use of the Internet to inform the electorate of Proposition C issues was effective. It is acknowledged that the Internet was not the primary mode of communication and should not be treated as such at the current time since many citizens do not have personal access to this technology.